IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.833 of 2007
SANTOSH SAO @ SANTOSH KUMAR
Versus
STATE OF BIHAR & ANR
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3. 15.9.2008. This Cr. Revision has been preferred against the order dated 1.5.2007 passed by Principal Judge , Family Court, Aurangabad in Misc. Case No. 33 of 2005/164 of 2006 thereby the petitioner has been directed to pay maintenance to opposite party no. 2 as well as her two minor children at the rate of Rs.2000/- per month to opposite party no. 2 and Rs.500/- each per month to her minor children.

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Heard learned counsel for the petitioner as well as opposite party.

The submission of the learned counsel for the petitioner is that the petitioner is still ready to keep his wife along with his two minor children. However, opposite party no. 2 is not willing to live with the petitioner on the ground that he has already entered into a second marriage.

On perusal of the impugned order, it appears that a suit for divorce was also filed by the petitioner.

Under the facts and circumstances, it is quite clear that relation between the petitioner and opposite party no. 2 is quite strained. In this view of the matter, court below has rightly ordered for maintenance to opposite party no. 2 and her two minor children.

However, it is submitted by learned counsel for the petitioner that the petitioner is a salesman and is earning Rs.1500/- per month only. No specific income has been mentioned in the impugned order.

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Having regard to the facts and circumstances as well as the capacity of the petitioner, amount of maintenance so granted to the opposite party no. 2 and her two minor children is hereby modified. The petitioner is directed to pay Rs.1000/- per month to opposite party no. 2 and Rs.500/- each per month to her minor children till they attain majority.

With the above modification in the maintenance amount, this application is dismissed.

kanchan **(Ghanshyam Prasad, J.)**